

The Senate has blocked ideologues, including die-hard Federalists during the 18th and early 19th centuries, who it concluded would not put aside their political beliefs on the bench. It killed the nominations of men viewed as skills for special interests and rejected others for being ethically compromised or simply not smart enough or wise enough to sit on federal courts for life.

That history matters as the Senate Judiciary Committee considers Dennis Shedd, Michael McConnell and Miguel Estrada for seats on the U.S. Court of Appeals. Republicans insist that the Senate panel, now with a one-vote Democratic edge, has dragged its feet in confirming President Bush's picks and that the tough questions senators have asked these three men and others about their judicial philosophy and temperament are a partisan effort to destroy the reputations of qualified men and women. Neither charge holds water.

In the 14 months since the Democrats took narrow control of the Senate, the Judiciary Committee has confirmed 78 judges, 14 of them to appellate courts. That compares with an average of 39 confirmations a year during the six-plus years of Republican control.

The committee has readily approved men and women more centrist in their views and more likely to be fair-minded on the bench. But committee members are right to hesitate over Shedd, McConnell and Estrada.

Shedd has published a scant 60 opinions in 12 years as a judge. He has backed employers against claims by workers almost without exception. In criminal cases, he has generously interpreted the law to favor police. He held quixotically that the federal family leave law does not apply to state employees, a ruling that, by extension, could invalidate other federal civil rights protections for state workers.

McConnell has repeatedly asserted that Supreme Court precedents should not bind the current court. He has argued before the Supreme Court that religious schools should receive certain types of government aid on the same basis as public schools.

Estrada, a corporate lawyer who helped make Bush's case in the Florida recount battle, has virtually no public writings and no judicial experience. The committee needs to see the memos he wrote at the U.S. solicitor general's office, which Atty. Gen. John Ashcroft has refused to release.

The Senate's obligation in confirming judges is to the people, not the president. All three men now before the Judiciary Committee should give members pause.

[From the Rutland Herald, Oct. 7, 2002]

MESSE OFF BASE CRITIZING LEAHY  
(By Leslie Black)

Former Attorney General Ed Meese and his so-called "truth squad" have a nerve coming to Vermont to berate Senator Leahy and insult the intelligence of Vermont citizens.

Senator Leahy, in his important role as chair of the Senate Judiciary Committee, is holding hearings on judicial nominations responsibly and admirably. He has demonstrated a commitment to choosing judges for the federal bench who are willing to uphold the U.S. Constitution.

Meese would prefer to see President Bush's anti-women's rights, anti-civil rights nominees confirmed, and he came to Vermont to spread poisonous misinformation about Senator Leahy to the senator's own constituents.

Vermont citizens don't need any of Meese's versions of the "truth." We know who represents us in the United States Senate, and what he stands for. We wholeheartedly sup-

port Senator Leahy's considered choice of federal judges and his respect for law. We have confidence in his ability to do his job honorably.

[From the Barre Montpelier Times Argus,  
Apr. 23, 2002]

DEFENDING LEAHY  
(By Edwin Granai)

Sen. Leahy has been accused by some Vermont Republicans of partisanship for not confirming Charles Pickering's nomination to the 5th Circuit Court of Appeals.

On the contrary, the Republican members of Leahy's committee voted the party line in support of a judge whose judicial record was often devoid of impartial objective considerations relating to existing law, and most importantly, to constitutional provisions.

Aside from the Pickering nomination, the fact is that under Leahy's chairmanship the Senate Judiciary Committee has approved 42 consecutive Bush administration appointees to the federal bench, including, though not Pickering, the 5th Circuit Court of Appeals.

Forty-two approvals out of 43 Bush nominations can hardly be considered partisan. Orrin Hatch, Leahy's Republican predecessor as chairman, sat on 53 of Clinton nominees. Didn't even give them a hearing. The partisanship in the Senate is clearly with the party of Leahy's accusers.

Patrick Leahy may be imperfect along with the rest of us. But as chairman of the Senate Judiciary Committee he has restored fairness and objectivity to the advise-and-consent role of the Senate.

[From The Barre Montpelier Times Argus,  
May 15, 2002]

POLITICAL TRIAGE

Edwin Meese, former U.S. attorney general, came to Montpelier on Monday to apply a bit of political pressure aimed at forcing Sen. Patrick Leahy to take speedier action in confirming judicial nominations.

Leahy, chairman of the Senate Judiciary Committee, has responsibility for holding hearings on President Bush's nominees to the federal bench. Bush himself has criticized the delays to which he says Leahy has subjected his nominees, saying vacancies on the bench threaten the administration of justice.

That was also the pitch made by Meese on Monday. His was another voice in the partisan wrangling that surrounds the issue. But Meese needn't have bothered.

Vermont Republicans no doubt took comfort in the boost their cause received from Meese's appearance. But on the whole, Vermonters are probably pleased by the idea that Leahy is giving Bush's more extreme nominees a closer look.

Leahy has played a shrewd game on the issue. Contrary to the accusations of his Republican opponents, he has actually been more efficient than his Republican predecessors in taking action on judicial nominees.

Figures from Leahy's office show that the number of vacancies on the bench grew from 65 to 110 from 1995 to 2001 when Republicans controlled the committee. That was a time when Sen. Orrin Hatch, the Republican chairman, failed to give a hearing to numerous nominees sent up by President Clinton.

By contrast Leahy's committee has already confirmed 52 Bush nominees, which exceeds the number of nominees confirmed by the Republican Senate during the final four years of Clinton's presidency. And the number of vacancies has fallen to 84.

So what are the Republicans complaining about?

They are complaining because, even though Leahy is moving quickly to confirm

nominees, he is not moving so quickly on all of them. Those whom the Democrats view as extreme conservatives are getting a long, careful look from the committee, and their hearings have been delayed.

The committee has already rejected the nomination of Charles Pickering for the Fifth Circuit Court of Appeals. But a nomination fight like that over Pickering takes a political toll, and Leahy knows he cannot subject his committee to that kind of grueling battle on all questionable candidates.

When the Republicans controlled the Senate, they understood the strategic value of delay. They defeated 24 Clinton nominees to the appellate courts, but they did not defeat them by an outright vote. They refused to allow a vote.

Leahy has urged Bush to nominate moderate judges around whom his committee can reach a consensus. But among Bush's nominees there is a cadre of extreme conservatives with questionable records on women's rights, workers' rights, and consumers' rights.

So Leahy is performing a sort of political triage. There are so many judges to confirm that, in order to move quickly, he has decided to act on those who can be confirmed quickly. That leaves the more controversial nominees cooling their heels.

When Sen. James Jeffords abandoned the Republican Party, he made it possible for Leahy to assume the chairmanship of the Judiciary Committee. Jeffords was concerned about the extremist tendencies of the Bush administration, and now Leahy has been able to exercise power to moderate those extremist tendencies.

Meese should know that most Vermonters were pleased that Jeffords gave Leahy that chance and that Leahy is making the most of the opportunity.

LOCAL LAW ENFORCEMENT ACT  
OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 1, 2000 in Traverse City, MI. A 23-year-old bartender at a gay bar was attacked as he was removing the trash out of the back door of the building around 2 a.m. An attacker grabbed him by the shoulders and began shouting "faggot" and other obscenities at him. Moments later, two other men jumped into the ally, one brandishing a baseball bat. The bartender was able to run away after the initial attack, but was assaulted again after trying to return to the club several minutes later.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.